

REMARKS

I. Summary of the Office Action

Claims 108-119 and 143-150 were pending in this application. Of these claims, claims 115-119 are withdrawn as being directed to a non-elected species.

Claim 146 was rejected under 35 U.S.C. § 112 first paragraph as failing to comply with the written description requirement.

Claims 144 and 145 were objected to as being dependent upon a rejected base claim, but being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 108-110, 112, 114, 143, and 146 were rejected under 35 U.S.C. § 102(e) as being anticipated by Sideris U.S. Patent No. 5,433,727 (hereinafter "Sideris"). Claims 108-110, 112, 114, 143, and 146 were rejected under 35 U.S.C. § 102(e) as being anticipated by Lesh et al. U.S. Patent No. 6,152,144 (hereinafter "Lesh").

Claims 111, 113, and 147-150 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sideris. Claims 111, 113, and 147-150 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lesh.

Claims 108-114, 143, and 146-150 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Kazuyuki et al. Patent No. EP 1013227 (hereinafter "Kazuyuki") in view of Das U.S. Patent No. 5,334,217 (hereinafter "Das").

II. Supplemental Information Disclosure Statement

Applicants filed a Fourth Supplemental Information Disclosure Statement on November 30, 2007 but did not submit English translations of DE 2822603 and FR 2641692. Applicants are now submitting a Fifth

Supplemental Information Disclosure Statement which includes an English description of DE 2822603 and lists U.S. Patent No. 5,192,301 (an English publication of FR 2641692). Applicants respectfully request that these foreign patent documents be (1) fully considered by the Patent and Trademark Office during examination of this application; and (2) printed on any patent which may issue on this application.

III. Summary of Applicants' Reply

Applicants have canceled claim 146, and have amended independent claim 108 to more particularly recite the present invention. Applicants have also amended dependent claims 143 and 147-150. The claim amendments are fully supported by the application as originally filed and therefore do not add new matter. For example, support for these amendments may be found at ¶ 0041 to ¶ 0045 of applicants' specification. The rejections of applicants' claims are respectfully traversed.

IV. Applicants' Reply

A. The 35 U.S.C. § 112 Rejection

The Examiner rejected claim 146 under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement. Applicants have canceled claim 146, and respectfully request that the 35 U.S.C. § 112 rejection be withdrawn.

B. The 35 U.S.C. § 102(e) Rejections

The Examiner rejected claims 108-110, 112, 114, 143, and 146 under 35 U.S.C. § 102(e) as being anticipated by Sideris or alternatively Lesh (see Office Action, pages 3-5). Applicants respectfully traverse these rejections.

Applicants' invention, as defined by amended independent claim 108, comprises a medial portion and first and second sets of fingers which are unitary with the medial portion. For example, as shown in FIGS. 1 and 2, the device may be formed from a hollow tube. The first and second sets of fingers are capable of extending substantially radially outward from the axis of the medial portion. The first set of fingers is unconnected to the second set of fingers at the radially outward ends, and is spaced an axial distance apart from the second set of fingers on the axis of the medial portion (see specification, FIGS. 1-5; and ¶ 0041 to ¶ 0045).

Sideris refers to a centering button device for occluding large heart defects (see Sideris, Abstract). The centering button device 10 includes an occluder 11 that is connected to a button loop 12 and a counter-occluder 14. In particular, the occluder 11 is made of foam 16 and a wire skeleton 18. The button loop 12 consists of a small loop 20, a radiopaque button 22, a middle loop 24, and a first loop 26 which is sutured to the occluder 11. The counter-occluder 14 is sutured to wire skeleton 18 (see Sideris, FIGS. 1-4; and column 4, lines 20-50).

Lesh refers to a device for occluding a body cavity, particularly the left atrial appendage of a heart (see Lesh, Abstract). The device includes an occluding member 11 that is secured to a retention member 12 by a hub 16 (see Lesh, FIGS. 1-3; and column 7, lines 31-43). In one embodiment, the retention member 12 has a shaft 28 and radially extending members 29 which anchor the shaft 28 and the occluding member 11 to tissue (see Lesh, FIGS. 3A and 3B; and column 8, lines 29-36).

As seen in column 4, lines 44-46 of Sideris, the counter-occluder 14 (i.e., the "first set of fingers") is connected to the wire skeleton 18 (i.e., the "second set of

fingers"). Therefore, even if the counter-occluder 14 and the wire skeleton 18 were considered to be sets of fingers, they cannot be considered "unconnected . . . at the radially outward ends," as specified in applicants' independent claim 108. Moreover, since the two structures are connected, they cannot be said to be "spaced an axial distance apart" as also recited by applicants' independent claim 108.

Although applicants disagree with the Examiner's rejection in view of Sideris, applicants have amended independent claim 108 to recite that the first and second sets of fingers are "unitary with the medial portion." As described above with respect to Sideris, the first loop 26 of the button loop 12 is sutured to the occluder 11 (see Sideris, column 4, lines 39-40). Therefore, even if the counter-occluder 14 and the wire skeleton 18 were considered to be sets of fingers, they would not be unitary with the button loop 12 (i.e., the "medial portion"), as recited by amended independent claim 108. Instead, the counter-occluder 14, the wire skeleton 18 and the button loop 12 are separate and distinct structures that are sutured together. Thus, Sideris does not show or suggest applicants' amended independent claim 108.

In addition, as discussed above, Lesh's shaft 28 (i.e., the "medial portion") is connected to the occluding member 11 (i.e., the "first set of fingers") by a hub 16 (see Lesh, column 7, lines 31-43). Thus, even if the occluding member 11 were considered to be a set of fingers, it would not be unitary with the shaft 28, as required by applicants' independent claim 108. Thus, Lesh does also not show or suggest applicants' amended independent claim 108.

According to applicants' specification, forming first and second sets of fingers that are unitary with a

medial portion is beneficial for many reasons. First, "[m]anufacture of the connector or plug structures . . . is greatly facilitated." Moreover, the fingers are "integral at all times, and there is no need to attempt to assemble the relatively small fingers" (see specification, ¶ 0056). Sideris and Lesh do not show or suggest these features or advantages.

For at least the foregoing reasons, applicants submit that independent claim 108 is allowable over Sideris and Lesh. Dependent claims 109-114, 143, and 146-150, which contain all the limitations of independent claim 108, are allowable for at least the same reasons. Applicants respectfully request, therefore, that the 35 U.S.C. § 102(e) rejections of these claims be withdrawn.

C. The 35 U.S.C. § 103(a) Rejections

The Examiner rejected claims 111, 113, and 147-150 under 35 U.S.C. § 103(a) as being unpatentable over Sideris. The Examiner rejected claims 111, 113, and 147-150 under 35 U.S.C. § 103(a) as being unpatentable over Lesh. The Examiner also rejected claims 108-114, 143, and 146-150 under 35 U.S.C. § 103(a) as being unpatentable over Kazuyuki in view of Das (see Office Action, pages 6-8). Applicants respectfully traverse these rejections.

As shown above, neither Sideris nor Lesh shows or suggests first and second sets of fingers that are unitary with a medial portion, as recited by applicants' amended independent claim 108. Applicants respectfully submit that neither Kazuyuki nor Das make up for the deficiencies in Sideris and Lesh.

Kazuyuki refers to a closure device and a catheter assembly for closing or repairing endocardiac or vascular defects (see Kazuyuki, ¶ 0001). The closure device includes a closure member 1, a fixing member 2 for

fixing the closure member 1 to tissue, and a connecting member 3 for holding the closure member 1 and the fixing member 2 in close proximity of one another. In particular, the connecting member 3 is fixed at one end to the fixing member 2 and at the other end to the closure member 1 (see Kazuyuki, ¶ 0022). Since the fixing member 2 (i.e., the "first set of fingers") and the closure member 1 (i.e., the second set of fingers") are fixed to the connecting member 3 (i.e., the "medial portion"), they are not unitary with the connecting member 3, as recited by independent claim 108. Thus, Kazuyuki does not show or suggest applicants' amended independent claim 108.

Das refers to a closure device with a pair of occluding disks that are attached to one another (see Das, column 3, lines 6-23). As shown in FIGS. 3-5, each disk includes a membrane 22, 32 of any desired shape which is attached to a respective frame 24, 34 by any suitable means (see Das, column 4, lines 61-67; and column 5, lines 21-40). Nowhere does Das show or suggest first and second sets of fingers that are unitary with a medial portion, as required by applicants' amended independent claim 108. Thus, Das does not show or suggest applicants' amended independent claim 108 either.

Therefore, Sideris, Lesh, Kazuyuki and Das, whether taken alone or in combination, do not show or suggest all the features recited by applicants' amended independent claim 108.

For at least the foregoing reasons, applicants submit that amended independent claim 108 is allowable over Sideris, Lesh, Kazuyuki and Das. Dependent claims 109-114, 143, and 146-150, which contain all the limitations of independent claim 108, are allowable for at least the same reasons. Applicants respectfully request, therefore, that

the 35 U.S.C. § 103(a) rejections of these claims be withdrawn.

V. Conclusion

In view of the foregoing, claims 108-114, 143, and 146-150 are allowable over the prior art of record. This application is therefore in condition for allowance. Reconsideration, rejoinder of withdrawn claims 115-119, and allowance are respectfully requested.

Respectfully submitted,



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